

## **CITY OF RYE**

### **NOTICE**

There will be a regular meeting of the City Council of the City of Rye on Wednesday, July 15, 2009, at 8:00 p.m. in the Council Room of City Hall. *The Council will convene at 7:00 p.m. and it is expected they will adjourn into Executive Session at 7:01 p.m. to discuss litigation and attorney/client matters.*

### **AGENDA**

1. Pledge of Allegiance.
2. Roll Call.
3. Approval of the election of a new member to the Rye Fire Department.
4. Public hearing to revise the Rye City code to allow for outdoor dining.
5. Public hearing to restrict parking on Mead Place.
6. Public hearing to adopt a local law for Senior Citizen Rent Increase Exemption (SCRIE).
7. Public hearing on the Special Permit Application (#TC011) submitted by MetroPCS New York, LLC to co-locate a wireless telecommunications facility on the roof top of 66 Milton Road.
8. Residents may be heard who have matters to discuss that do not appear on the agenda.
9. Consideration to set a public hearing for August 12, 2009 to amend Chapter 191 Vehicles and Traffic” by amending Article IV “Removal and Storage of Vehicles” to the City Code of the City of Rye.
10. Resolution ratifying the appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2012.
11. Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman of the Nominating Committee.
12. Resolution to accept a donation from the VFW Post 7550 for repairs to the World War I Monument.  
Roll Call.
13. Bid Award for Annual Street resurfacing (Contract #2009-04).  
Roll Call.

14. Resolution to declare certain equipment in the Department of Public Works as obsolete.  
Roll Call.
15. Miscellaneous communications and reports.
16. Old Business.
17. New Business.
18. Draft unapproved minutes of the regular meeting of the City Council held June 10, 2009.
19. Adjournment.

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, August 12, 2009. This regular meeting will include a presentation of the Capital Improvements Program.



# CITY COUNCIL AGENDA

NO. 3

DEPT.: Fire Department

DATE: June 15, 2009

CONTACT: Chief George Hogben

**AGENDA ITEM:** Approval of the election of a new member to the Rye Fire Department.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the Council approve the election of Max Billington to the Poningoe Engine and Hose Company.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The Board of Fire Wardens has advised that Max Billington was elected into membership by the Poningoe Engine and Hose Company and was approved by the Fire Wardens at their June meeting.



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Manager's Office

DATE: June 15, 2009

CONTACT: Frank J. Culross, City Manager

**AGENDA ITEM:** Public Hearing to revise the Rye City code to allow for outdoor dining.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:** A proposal has been put forward to allow for outdoor dining in the Central Business. This would involve revising the Rye City Code to allow for outdoor dining.

See attached information regarding Seasonal Outdoor seating from City Planner Christian K. Miller.

Christian K. Miller, AICP  
City Planner  
1051 Boston Post Road  
Rye, New York 10580



Tel: (914) 967-7167  
Fax: (914) 967-7185  
E-mail: [cmiller@ryeny.gov](mailto:cmiller@ryeny.gov)  
<http://www.ryeny.gov>

**CITY OF RYE**  
**Department of Planning**

**Memorandum**

---

To: Frank J. Culross, City Manager

From: Christian K. Miller, AICP, City Planner

cc: Rye City Planning Commission  
Vincenzo Tamburro, City Building Inspector  
William R. Connors, Police Commissioner  
George Mottarella, City Engineer  
Kristin K. Wilson, Corporation Counsel

Date: June 24, 2009

Subject: **Draft Local Law Regarding Outdoor Customer Seating**

As requested by the City Council, attached hereto is a draft local law to amend the City's Zoning Code to allow seasonal outdoor customer seating. The attached law has been revised to reflect the comments made by the Planning Commission at its June 23, 2009 meeting<sup>1</sup>.

Also attached for the Council's use and consideration is:

- Full Environmental Assessment Form
- Copy of the notification of the local law to the Westchester County Planning Board
- A draft outdoor seating permit application form
- A resolution adopting a SEQR Negative Declaration, adopting the local law and amending the City's fee schedule to establish fees for outdoor seating permits.

Please note that all of the attached documents should be reviewed by Corporation Counsel.

---

<sup>1</sup> All changes to the previous local law draft dated June 18, 2009 are shown in ~~striketrough~~ for deletions and underline for additions.

## **Draft Local Law Regarding Outdoor Customer Seating**

June 24, 2009

Page 2 of 4

The following summarizes the provisions of the draft law and its differences from the previous law adopted by the City Council in 1998, but which expired in 2000.

- **Applicability.** The draft local law proposes that outdoor customer seating be permitted only as an accessory use in the City's B-2 Central Business District. The previous law allowed outdoor seating in the B-2 District and one of the City's 11 B-1 Neighborhood Business District located between Cross Street and Central Avenue along Boston Post Road. All restaurants located outside the City's Central Business District (most of which are located in B-1 Districts) are legal non-conforming uses. Allowing outdoor dining in these areas could be considered an expansion of a non-conforming use and require a variance from the Board of Appeals. The 2005 Neighborhood Business District Study, recommends that the City reconsider restrictions against restaurants in the City's B-1 District. If these uses were allowed the non-conforming issue would not be a concern. This question should be discussed with Corporation Counsel.

At its June 23, 2009 meeting the Planning Commission was receptive to the idea of allowing seasonal outdoor seating in the City's B-1 Districts for retail and restaurant uses. It was noted, however, that many of the City's B-1 Districts are located within close proximity to residential areas and many area residents may find outdoor seating objectionable. If the Council chooses the law can be easily modified to allow seasonal outdoor seating in the B-1 and B-2 Districts. A map of the B-1 Districts is attached for the City Council's reference.

- **Public Notice and Comment.** The former law classified outdoor customer seating as a Use Permitted Subject to Additional Standards and Requirements. The proposed law changes the classification to a permitted accessory use. This change accomplishes two objectives. First, it reinforces the City's intent to make outdoor customer seating an accessory use rather than a principal use. Under the former law it appears potentially possible that a use could be proposed in which a property consists mostly of outdoor dining.

Secondly, the change in the use classification eliminates the more involved and time-consuming site plan submission and public hearing and notification process required for Uses Permitted Subject to Additional Standards and Requirements. The former law required a public hearing, posting of a sign on the building, notice in the official newspaper and circulation of the notice to property owners (and residential tenants) within 750 feet of the subject property ten days prior to the hearing. Typically at least two meetings of the Planning Commission were required to comply with these public notice requirements.

The draft permit application form requires applicants to post a notice in the establishment window at the time an application is submitted for outdoor customer seating. There is no public hearing or circulation of notices to

## Draft Local Law Regarding Outdoor Customer Seating

June 24, 2009

Page 3 of 4

neighbors and there is no explicit requirement for public input in the attached draft law. The sign posting will alert area businesses (which are likely to be most impacted by proposed outdoor dining) that an application has been submitted. No hearing is required, however the posting of the notification sign must occur when the application is submitted and not less than ten days before a Planning Commission meeting date.

- **Standards.** Unlike the former law, the draft local law more specifically identifies standards and conditions that the Planning Commission can impose in considering a permit application. The Commission is not mandated to impose these standards, but it is intended to provide more guidance to the Commission in its decision-making process.

One standard that was added was the requirement that if outdoor dining is proposed on City property that at least four feet of clear and unobstructed pathway be provided for pedestrians. Staff feels strongly that a minimum standard be stated in the law so that it is consistent with the City's Streets and Sidewalks Code and provides adequate protection for pedestrians and handicapped.<sup>2</sup> The Planning Commission recommended that the minimum dimension be increased to five feet, which is reflected in the draft law.

- **Use of City Property.** The draft law requires that an insurance certificate naming the City as an additional insured in the amount of \$2 million and a signed and notarized indemnification and hold harmless agreement shall be provided for any seasonal outdoor customer seating approved by the Planning Commission on City property. The former law did not include this language. It is expected that this requirement will be handled administratively and will not require City Council approval as was the practice in the past. This will significantly reduce the amount of time for applicants to obtain permits and permission for outdoor customer seating. The Planning Commission recommended that this provision and insurance amount be reviewed by Corporation Counsel.
- **Law Simplification.** The former local law broke out types of customer seating into two separate categories one for restaurant and one for retail uses. The draft law consolidates this use into one category - seasonal outdoor customer seating.
- **Fees.** A fee of \$500 is proposed for all permit applications. The fee in 1996 was \$400. If the application proposes the use of City property a fee of \$100 per table is proposed. This is a small fraction of the income that businesses will likely generate from up to seven months of outdoor tables, but consistent with fees charged by the Village of Larchmont.

---

<sup>2</sup> See section 167-13.G, *Safeguarding pedestrian and other traffic*.

## **Draft Local Law Regarding Outdoor Customer Seating**

June 24, 2009

Page 4 of 4

- *Next Steps – Planning Commission Action.* If the City Council adopts the attached law at its July 15, 2009 meeting, the Planning Department will accept complete applications immediately. Applications will be considered by the Planning Commission at its next meeting on July 28 if permit applications and notification signs are posted in establishment windows by no later than July 18, 2009. These applications will comply with the 10-day notice requirement provided in the permit application forms.



# DRAFT

## CITY OF RYE LOCAL LAW NO. \_\_\_\_-2009

### A local law amending §197-86 of the Code of the City of Rye to Allow Accessory Seasonal Outdoor Customer Seating,

Deleted: in the B-2 Central Business District

Be it enacted by the City Council of Rye as follows:

**Section 1.** §197-86 Table of Regulations: Table B Business Districts-Use Regulations, Column 3, Permitted Accessory Uses, Row B-2 Central Business Districts, of the Code of the City of Rye is hereby amended to add the following new subsection:

- (4) Seasonal outdoor customer seating annual permit. The Planning Commission may annually permit seasonal outdoor customer seating and tables on a property and, to a limited degree, extensions onto abutting City property, subject to the following limitations:
  - (a) Outdoor customer seating shall only be permitted from April through October and shall require a new permit approved by the Planning Commission ~~before~~ each season. During the months of November through March, the tables, chairs and any related equipment must be stored inside of the building or removed from the site.
  - (b) The Planning Commission shall limit the area of outdoor customer seating such that it will not interfere in any way with fire exits or other requirements of the Building Code of New York State.
  - (c) The Planning Commission shall limit the area to be devoted to outdoor customer seating so that it will not interfere with access by the handicapped and shall maintain on any City sidewalk a safe, adequate and unobstructed passageway for pedestrians not less than ~~five (5)~~ feet in clear width from the edge of the outdoor seating area to the nearest obstruction.
  - (d) The outdoor area to be devoted to seasonal outdoor customer seating shall not be considered ~~for the purpose of determining on-site parking requirements.~~
  - (e) The Planning Commission may impose conditions and requirements as it deems appropriate, including, but not limited to size and configuration of the outdoor seating area; maximum number of tables and chairs; permitted hours of outdoor seating; type, size and color of tables and chairs; requirements for the daily removal of tables and chairs; ~~limitations on the placement of tables during City-approved outdoor events, and/or~~ standards for cleanliness and removal of debris.

Deleted: four (4)

Deleted: a

# DRAFT

- (f) The Planning Commission shall not issue a permit if it finds that the proposed outdoor seating would be incompatible with other uses on the property or an abutting property.
- (g) The Planning Commission may deny the issue of a permit if it finds that during the prior year the permit holder violated any condition of the permit, that during the prior year the applicant or the property owner provided or permitted outdoor seating without having obtained a permit or that there are outstanding notices of violation concerning the property or the applicant's use.
- (h) An insurance certificate naming the City as an additional insured in the amount of \$2 million and a signed and notarized indemnification and hold harmless agreement shall be provided for any seasonal outdoor customer seating approved by the Planning Commission on City property.

Deleted: 1

**Section 2.** §197-86 Table of Regulations: Table B Business Districts-Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements, Row B-1 Neighborhood Business Districts, of the Code of the City of Rye is hereby amended to remove subsection 12, Retail use seasonal outdoor customer seating annual permit and subsection 13, Restaurant use seasonal outdoor customer seating annual permit.

**Section 3.** §197-86 Table of Regulations: Table B Business Districts-Use Regulations, Column 2, Uses Permitted Subject to Additional Standards and Requirements, Row B-2 Central Business Districts, of the Code of the City of Rye is hereby amended to remove subsection 6, Retail use seasonal outdoor customer seating annual permit and subsection 7, Restaurant use seasonal outdoor customer seating annual permit.

**Section 4.** This local law shall take effect immediately upon filing in the office of the Secretary of State.

**RESOLUTION**  
**Adopting a local law amending §197-86 of the Code of the City of Rye to**  
**Allow Accessory Seasonal Outdoor Customer Seating and**  
**Amending the 2009 City of Rye Fee Schedule to Add Fees for**  
**Seasonal Outdoor Customer Seating Permits**

WHEREAS, on June 10, 2009 the Rye City Council set a public hearing for July 15, 2009 on a local law amending §197-86 of the Code of the City of Rye to allow accessory seasonal outdoor customer seating; and

WHEREAS, the notice of hearing was circulated to the Westchester County Planning Board and abutting communities as required by Sections 277.61 and 277.71 of the Westchester County administrative code; and

WHEREAS, the City Council has reviewed the Full Environmental Assessment Form (EAF) dated June 18, 2009 and determines that the proposed action is consider a Type I; and

WHEREAS, the City Council is the only Involved Agency in connection with the proposed action; and

WHEREAS, the City Council conducted a noticed public hearing on July 15, 2009 and all those wishing to be heard were given the opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, that the City Council designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

BE IT FURTHER RESOLVED, that the City Council adopts Local Law #\_\_\_\_\_-2009 amending §197-86 of the Code of the City of Rye to Allow Accessory Seasonal Outdoor Customer Seating; and

BE IT FURTHER RESOLVED, that the City Council amends the 2009 City Fee Schedule to add a fee for Seasonal Outdoor Customer Seating Permits in the amount of five-hundred dollars (\$500) and a Seasonal Outdoor Customer Seating License fee of one-hundred dollars (\$100) per table located on City property.

## Appendix A

State Environmental Quality Review  
FULL ENVIRONMENTAL ASSESSMENT FORM

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially large, then Part 3 is used to evaluate whether or not the impact is actually important.

### DETERMINATION OF SIGNIFICANCE – Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project: ☒ Part 1 ☒ Part 2 ☐ Part 3

Upon review of the information recorded on this EAF (Parts 1, 2 and 3, if appropriate), and any other supporting information, and considering both the magnitude and important of each impact, it is reasonably determined by the lead agency that:

- ☐ A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
- ☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED** negative declaration will be prepared.\*
- ☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

\* A Conditioned Negative Declaration is only valid for Unlisted Actions

**A Local Law Amending the B-2 District to Allow Accessory Seasonal Outdoor Customer Seating**

Name of Action

Rye City Council

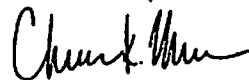
Name of Lead Agency

Steve Otis

Print or Type Name of Responsible Officer in Lead Agency

Mayor

Title of Responsible Officer



Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Christian K. Miller, AICP, Rye City Planner

June 18, 2009

Date

## PART 1 – PROJECT INFORMATION

### Prepared by Project Sponsor

**NOTICE:** This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

<b>NAME OF ACTION</b>		
<b>A Local Law Amending the B-2 District to Allow Accessory Seasonal Outdoor Customer Seating</b>		
<b>LOCATION OF ACTION (Include Street Address, Municipality and County)</b>		
City of Rye		
<b>NAME OF APPLICANT/SPONSOR</b>		<b>BUSINESS TELEPHONE</b>
Rye City Council		(914) 967-7167
<b>ADDRESS</b>		
1051 Boston Post Road		
<b>CITY/PO</b>	<b>STATE</b>	<b>ZIP CODE</b>
Rye	New York	10580
<b>NAME OF OWNER (if different)</b>		<b>BUSINESS TELEPHONE</b>
N/A		( )
<b>ADDRESS</b>		
<b>CITY/PO</b>	<b>STATE</b>	<b>ZIP CODE</b>
<b>DESCRIPTION OF ACTION</b>		
<p>The proposed action involves adopting a local law to amend the City Zoning Code to allow seasonal outdoor customer seating in the B-2 Central Business District. The proposed local law is substantially similar to a law last adopted by the City Council in 1998, which sunset in 2000. All applications for seasonal outdoor customer seating will require City Planning Commission approval and will be limited to the City's main mixed-use commercial district. Since the proposed action involves a local law and is not project specific many of the questions of the full EAF are not applicable.</p>		

**Please Complete Each Question – Indicate N.A. if not applicable**

#### A. Site Description – NOT APPLICABLE

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:      ☐ Urban      ☐ Industrial      ☐ Commercial      ☐ Residential (Suburban)  
    ☐ Forest      ☐ Agriculture      ☐ Rural (Non-Farm)      ☐ Other \_\_\_\_\_

2. Total Acreage of Project Area: \_\_\_\_\_ acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-Agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Article 24,25 of ECL	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings & other paved surfaces	_____ acres	_____ acres
Other (Indicate type): _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? \_\_\_\_\_
- a. Soil Drainage:      ☐ Well drained \_\_\_\_\_% of site      ☐ Moderately drained \_\_\_\_\_% of site      ☐ Poorly drained \_\_\_\_\_% of site
- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? \_\_\_\_\_ acres. (See 1 NYCRR 370)
4. Are there bedrock outcroppings on project site? ☐ Yes ☐ No
- a. What is depth to bedrock? \_\_\_\_\_ (in feet)

5. Approximate percentage of proposed project site with slopes:

☐ 0 - 10% \_\_\_\_\_%      ☐ 10 - 15% \_\_\_\_\_%      ☐ 15% or greater \_\_\_\_\_%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places?    ☐ Yes    ☐ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?    ☐ Yes    ☐ No

8. What is the depth of the water table? \_\_\_\_\_ (in feet)

9. Is site located over a primary, principal, or sole source aquifer?    ☐ Yes    ☐ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?    ☐ Yes    ☐ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?

☐ Yes    ☐ No

According to \_\_\_\_\_

Identify each species \_\_\_\_\_

12. Are there any unique or unusual land forms on the project site? (i.e. cliffs, dunes, other geological formations)

☐ Yes    ☐ No

Describe \_\_\_\_\_

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes    ☐ No

If yes, explain \_\_\_\_\_

14. Does the present site include scenic views known to be important to the community?

☐ Yes    ☐ No

15. Streams within or contiguous to project area: \_\_\_\_\_

a. Name of Stream and River to which it is tributary: \_\_\_\_\_

16. Lakes, ponds, wetland areas within or contiguous to project area:

a. Name \_\_\_\_\_

b. Size in acres \_\_\_\_\_

17. Is the site served by existing public utilities?

☐ Yes

☐ No

a. If yes, does sufficient capacity exist to allow connection?

☐ Yes

☐ No

b. If yes, will improvements be necessary to allow connection?

☐ Yes

☐ No

18. Is the site located in an agricultural district certified pursuant to Agriculture and Market Laws, Article 25-AA, Section 303 and 304?

☐ Yes

☐ No

19. Is the site located in or substantially contiguous to a Critical Environmental Area or an Environmentally Sensitive Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?

☐ Yes

☐ No

20. Has the site ever been used for the disposal of solid or hazardous wastes?

☐ Yes

☐ No

## B. Project Description - NOT APPLICABLE, Except #24 and #25

1. Physical dimensions and scale of project (fill in dimensions as appropriate)

a. Total contiguous acreage owned or controlled by project sponsor \_\_\_\_\_ acres.

b. Project acreage to be developed: \_\_\_\_\_ acres initially; \_\_\_\_\_ acres ultimately.

c. Project acreage to remain undeveloped \_\_\_\_\_ acres.

d. Length of project in miles: \_\_\_\_\_ (if appropriate)

e. If the project is an expansion, indicate percent of expansion proposed \_\_\_\_\_%.

f. Number of off-street parking spaces existing \_\_\_\_\_ proposed \_\_\_\_\_

g. Maximum vehicular trips generated per hour \_\_\_\_\_ (upon completion of project)?

h. If residential: Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially	_____	_____	_____	_____
Ultimately	_____	_____	_____	_____

i. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height \_\_\_\_\_ width \_\_\_\_\_ length.

j. Linear feet of frontage along a public thoroughfare project will occupy is? \_\_\_\_\_ feet.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? \_\_\_\_\_ tons/cubic yards.
3. Will disturbed areas be reclaimed? ☐ Yes ☐ No ☐ N/A
- a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_ ☐ Yes ☐ No
- b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No
- c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? \_\_\_\_\_ acres.
5. Will any mature forest (over 100 years old) or other locally important vegetation be removed by this project? ☐ Yes ☐ No
6. If single phase project: Anticipated period of construction \_\_\_\_\_ months, (including demolition)
7. If multi-phased:
- a. Total number of phases anticipated \_\_\_\_\_ (number)
- b. Anticipated date of commencement Phase 1 \_\_\_\_\_ month \_\_\_\_\_ year. (Including demolition)
- c. Approximate completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year.
- d. Is Phase 1 functionally dependent on subsequent phase? ☐ Yes ☐ No
8. Will blasting occur during construction? ☐ Yes ☐ No
9. Number of jobs generated: during construction \_\_\_\_\_ after project is complete \_\_\_\_\_
10. Number of jobs eliminated by this project \_\_\_\_\_
11. Will project require relocation of any projects or facilities? ☐ Yes ☐ No  
If yes, explain \_\_\_\_\_
12. Is surface liquid waste disposal involved? ☐ Yes ☐ No
- a. If yes, indicate type of waste (sewage, industrial, etc.) and amount \_\_\_\_\_
- b. Name of water body into which effluent will be discharged \_\_\_\_\_
13. Is subsurface liquid waste disposal involved? ☐ Yes ☐ No Type \_\_\_\_\_
14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☐ No  
Explain \_\_\_\_\_
15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ☐ No
16. Will the project generate solid waste? ☐ Yes ☐ No
- a. If yes, what is the amount per month \_\_\_\_\_ tons.
- b. If yes, will an existing solid waste facility be used? ☐ Yes ☐ No
- c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_
- d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☐ No
- e. If yes, explain \_\_\_\_\_
17. Will the project involve the disposal of solid waste? ☐ Yes ☐ No
- a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.
- b. If yes, what is the anticipated site life? \_\_\_\_\_ years.
18. Will project use herbicides or pesticides? ☐ Yes ☐ No
19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☐ No
20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☐ No
21. Will project result in an increase in energy use? ☐ Yes ☐ No  
If yes, indicate type(s) \_\_\_\_\_
22. If water supply is from wells, indicate pumping capacity \_\_\_\_\_ gallons/minute.
23. Total anticipated water usage per day \_\_\_\_\_ gallons/day.
24. Does project involve Local, State or Federal funding? ☐ Yes ☒ No  
If yes, explain \_\_\_\_\_

25. Approvals Required:

City Council	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Type	Submittal Date
City Planning Commission	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Local Law Adoption	Pending
City Health Department	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Advisory Comment on Local Law	Pending
Other Local Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Other Regional Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
State Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Federal Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Other: <u>West. County Planning</u>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Advisory Review per GML/WCAC Referral	Pending

C. Zoning and Planning Information

- Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No  
If yes, indicate decision required:  
☐ Resource Management Plan ☐ Zoning Variance ☐ Special Use Permit ☐ Subdivision  
☐ New/Revision of Master Plan ☒ Zoning Amendment ☐ Site Plan ☐ Other \_\_\_\_\_
- What is the zoning classification(s) of the site? N.A.
- What is the maximum potential development of the site if developed as permitted by the present zoning?  
N.A.
- What is the proposed zoning of the site? Text Amendment. Zoning district designation remains unchanged.
- What is the maximum potential development of the site if developed as permitted by the proposed zoning?  
Zoning text amendment would not alter the bulk and dimensional restrictions of B-2 District.
- Is the proposed action consistent with the recommended uses in adopted local land use plan? ☒ Yes ☐ No
- What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?  
N.A.
- Is the proposed action compatible with adjoining/surrounding land uses within a ¼ mile? ☒ Yes ☐ No
- If the proposed action is the subdivision of land, how many lots are proposed? N.A.  
a. What is the minimum lot size proposed? \_\_\_\_\_
- Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No
- Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  
☐ Yes ☒ No  
a. If yes, is existing capacity sufficient to handle projected demand? ☐ Yes ☐ No
- Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No  
a. If yes, is the existing road network adequate to handle the additional traffic? ☐ Yes ☐ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name \_\_\_\_\_ Date \_\_\_\_\_  
Signature Christian K. Miller Title City Planner  
Christian K. Miller, AICP

If the action is in the Coastal Area, and you are a State Agency, complete the Coastal Assessment Form before proceeding with this assessment.



## PART 2 – PROJECT IMPACTS AND THEIR MAGNITUDE

### Responsibility of Lead Agency

#### General Information (Read Carefully)

- In completing the form the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- The examples provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in Column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site, other examples and/or lower thresholds may be appropriate for a Potential Large Impact Response, thus requiring evaluation in Part 3.
- The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- The number of examples per question does not indicate the importance of each question.
- In identifying impacts, consider long term, short term and cumulative effects.

#### Instructions (Read carefully)

- Answer each of the 20 questions in Part 2. Answer Yes if there will be any impact.
- Maybe answers should be considered as Yes answers.
- If answering Yes to a question then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur, but threshold is lower than example, check column 1.
- Identifying that an impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in Part 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- If reviewer has doubt about size of the impact, then consider the impact as potentially large and proceed to Part 3.
- If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. No response indicates that such a reduction is not possible. This must be explained in Part 3.

#### IMPACT ON LAND

- Will the proposed action result in a physical change to the project site?  
☐ Yes ☒ No

##### Examples that would apply to column 2

- Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area.
- Construction on land where the depth to the water table is less than 3 feet.
- Construction of paved parking area for 1,000 or more vehicles.
- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.
- Construction that will continue for more than 1 year or involve more than one phase or stage.
- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.
- Construction or expansion of a sanitary landfill.
- Construction in a designated floodway.
- Other impacts \_\_\_\_\_

- Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) ☐ Yes ☒ No
- Specific land forms: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

### IMPACT ON WATER

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
3. Will proposed action affect any water body designated as protected? Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes	<input type="checkbox"/> No
Examples that would apply to column 2			<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Dredging more than 100 cubic yards of material from a channel of a protected stream	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Extension of utility distribution facilities through a protected waterbody.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Other impacts _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Will proposed action affect any non-protected existing or new body of water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes	<input type="checkbox"/> No
Examples that would apply to column 2			<input type="checkbox"/> Yes	<input type="checkbox"/> No
• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease..	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Construction of a body of water that exceeds 10 acres of surface area	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Other impacts _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Will proposed action affect surface or groundwater quality or quantity? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes	<input type="checkbox"/> No
Examples that would apply to column 2			<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action will require a discharge permit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action requires use of a source of water that does not have approval to serve proposed (project) action.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action requires water supply from wells with greater than 45 gallons per minute pumping capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Construction or operation causing any contamination of a water supply system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action will adversely affect groundwater.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action would use water in excess of 20,000 gallons per day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action will require the storage of petroleum or chemical products greater than 1,100 gallons.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action will allow residential uses in areas without water and/or sewer services.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Other impacts _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. Will proposed action alter drainage flow or patterns, or surface water runoff? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes	<input type="checkbox"/> No
Examples that would apply to column 2			<input type="checkbox"/> Yes	<input type="checkbox"/> No
• Proposed action would change flood water flows.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

- | 1<br>Small to Moderate<br>Impact | 2<br>Potential Large<br>Impact | 3<br>Can Impact Be Mitigated By<br>Project Change |                                 |
|----------------------------------|--------------------------------|---|---------------------------------|
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <br><input type="checkbox"/>     | <br><input type="checkbox"/>   | <br><input type="checkbox"/> Yes                  | <br><input type="checkbox"/> No |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <br><input type="checkbox"/>     | <br><input type="checkbox"/>   | <br><input type="checkbox"/> Yes                  | <br><input type="checkbox"/> No |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <br><input type="checkbox"/>     | <br><input type="checkbox"/>   | <br><input type="checkbox"/> Yes                  | <br><input type="checkbox"/> No |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <input type="checkbox"/>         | <input type="checkbox"/>       | <input type="checkbox"/> Yes                      | <input type="checkbox"/> No     |
| <br><input type="checkbox"/>     | <br><input type="checkbox"/>   | <br><input type="checkbox"/> Yes                  | <br><input type="checkbox"/> No |

- ## IMPACT ON AESTHETIC RESOURCES

### Examples that would apply to column 2

- ## IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

**Examples that would apply to column 2**

- ## IMPACT ON OPEN SPACE AND RECREATION

**Examples that would apply to column 2**

- [illegible]



[illegible]

20. Is there, or is there likely to be, public controversy related to potential adverse environmental impacts? ☐ Yes ☒ No

**If any action in Part 2 is identified as a potential large impact or if you cannot determine the magnitude of impact, proceed to Part 3.**

## **PART 3 – EVALUATION OF THE IMPORTANCE OF IMPACTS**

### **Responsibility of Lead Agency**

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

#### **Instructions:**

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is important.

To answer the question of importance, consider:

- The probability of the impact occurring
- The duration of the impact
- It's irreversibility, including permanently lost resources of value
- Whether the impact can or will be controlled
- The regional consequence of the impact
- It's potential divergence from local needs and goals
- Whether known objections to the project relate to this impact

(Continue on attachments)



# Seasonal Outdoor Customer Seating

City of Rye, New York Planning Department

1051 Boston Post Road, Rye, New York 10580

Phone: (914) 967-7167

Fax (914) 967-7185

[www.ryenyc.gov/planning.htm](http://www.ryenyc.gov/planning.htm)

## DRAFT

A. Establishment Name: \_\_\_\_\_

B. Applicant or Representative:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

C. Property Owner:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

D. Property Information:

Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ Rye State: NY Zip: 10580  
Property Area (Acres): \_\_\_\_\_  
Tax Map Designation: Sheet: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

E. Application Information:

Area of outdoor seating: \_\_\_\_\_  
Number of tables: \_\_\_\_\_  
Size of tables: \_\_\_\_\_  
Table material type and color: \_\_\_\_\_  
Number of chairs: \_\_\_\_\_  
Chair material type and color: \_\_\_\_\_  
Days and hours of outdoor seating: \_\_\_\_\_

F. Application Submission Information

1. A plan shall be provided with appropriate dimensions showing the following:
  - The size and configuration of the outdoor customer seating area and the extent of encroachment (if any) on adjacent City property. If seating is proposed in front of an





# Seasonal Outdoor Customer Seating

## City of Rye, New York Planning Department

Page 2 of 2

adjacent establishment the owner/operator of that adjacent establishment and property owner shall also endorse this application.

- The location of adjacent buildings and storefront entrances.
  - Dimensions to City curb and other existing obstructions (e.g. trees, signs, planters or other street amenities)
2. If any outdoor customer seating is located on City property the applicant shall provide the City of Rye with an insurance certificate naming the City as an additional insured in the amount of \$1 million and shall provide a signed and notarized indemnification and hold harmless agreement.
3. Fees:
- Application Fee: \$500
  - License Fee: \$100 per table (*applicable to applications located on City property*).
4. Applications must be submitted not less than ten days before a Planning Commission Meeting. Upon submission of an application the applicant shall post in the front window of the establishment the following sign having a minimum size of 2 feet by 3 feet. The size of lettering shall be a minimum of 2 inches, except that the words "PUBLIC NOTICE" appearing at the top of the sign shall have no less than 5 inch high lettering.

### PUBLIC NOTICE

AN APPLICATION FOR SEASONAL OUTDOOR CUSTOMER SEATING HAS BEEN SUBMITTED FOR THIS ESTABLISHMENT AND WILL BE CONSIDERED BY THE RYE CITY PLANNING COMMISSION AT ITS NEXT AVAILABLE MEETING.

ADDITIONAL INFORMATION IS AVAILABLE AT THE CITY PLANNER'S OFFICE AT RYE CITY HALL, 1051 BOSTON POST ROAD.

### G. Signatures

By signing this application the applicant attests that to the best of his or her knowledge all information provided herein is accurate and truthful. The signature of the applicant and owner also grants consent to having any City Staff or Board or Commission members responsible for of the review or approval of this application to enter the property of the subject application.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner Signature(s)

\_\_\_\_\_  
Date

**Westchester County Planning Board  
General Municipal Law Referral Form**

**Referral/Application Name:** Outdoor Seating Local Law

**Address:** 1051 Boston Post Road

**Municipality:** Rye, New York

**Westchester County Planning  
Board comments due by:**

July 15, 2009

**Zip code of the location of the action:** 10580      **Local Case Number:** \_\_\_\_\_

**Referring agency:**

- ☐ Planning Commission  
☐ Zoning Board of Appeals  
☒ City Council  
☐ Other: \_\_\_\_\_

**Meeting Date:** July 15, 2009

**Type of action:**

- ☐ New  
☐ Expansion  
☐ Addition

**Public:  
Hearing?**

- ☐ Yes  
☐ No

**Referral to  
Abutting  
Communities?**

- ☐ Yes  
☐ No

*If Yes, Complete Second Page*

**Referral trigger\***

☐ **Comprehensive Plan** (Adoption or Amendment)

☐ **Official Map** (Adoption or Amendment)

☐ **Site Plan**

Affecting property within 500 feet of:

- A municipal boundary
- The boundary of an existing or proposed state or county park or any other state/county recreation area
- The right-of-way of an existing or proposed state or county road
- An existing or proposed county drainage channel line
- The boundary of state- or county-owned land on which a public building/ institution is located
- The boundary of a farm located in an agricultural district

☒ **Special Use Permit** (Changing the land use classification of the property)

☐ **Subdivision Plat** (Only with a new street connecting directly into a state or county road or new drainage line connecting directly into a county drainage channel)

☐ **Zoning Ordinance or Map** (Adoption or Amendment)

**Zoning Variance** (Affecting property abutting a state or county road or park)

- ☐ Decreasing front yard setback  
☐ Decreasing minimum street frontage  
☐ Decreasing average width

**Contact Information**

**Local Contact Name:** Christian K. Miller, AICP, City Planner

**Department/Agency:** Rye City Planning Department

**Phone number:** 967-7167 (phone) 967-7185 (fax)      **Email address:** cmiller@ryenvy.gov

Please provide notice at least 10 days prior to a hearing (30 days for site plans) with supporting documentation (including an EAF) and return address to:

**Municipal Referrals**  
**Westchester County Department of Planning**  
**148 Martine Avenue, Room 432**  
**White Plains, NY 10601-3311**

**WCPB Recommendation:**

- ☐ LWC  
☐ LDT  
☐ NC

**Notes:**

\* This list is provided as a convenience. Please check General Municipal Law and the Westchester County Code to be certain which actions to refer. Referral of the application to abutting municipalities may also be required.

Christian K. Miller, AICP  
City Planner  
1051 Boston Post Road  
Rye, New York 10580



Tel: (914) 967-7167  
Fax: (914) 967-7185  
E-mail: [cmiller@ci.rye.ny.us](mailto:cmiller@ci.rye.ny.us)  
<http://www.ci.rye.ny.us>

**CITY OF RYE**  
**Department of Planning**

June 25, 2009

☒ Town/Village Clerk  
Municipal Building  
1 Heineman Place  
Harrison, New York 10528

☒ Village Clerk  
Village Hall at the Regatta  
123 Mamaroneck Avenue  
Mamaroneck, New York 10543

☒ Village Clerk  
Village Hall  
10 Pearl Street  
Port Chester, New York 10573

☐ Town Clerk  
c/o Diane Fox, Town Planner  
Town Hall  
101 Field Point Road, 2<sup>nd</sup> Floor  
Greenwich, Connecticut 06830

☒ Village Clerk  
Village Hall  
938 King Street  
Rye Brook, New York 10573

**Subject: Seasonal Outdoor Customer Seating Local Law  
Referral Pursuant to Westchester County Administrative Code**

To Whom It May Concern:

Enclosed herewith for your use as required by Section 277.71 of the Westchester County Administrative Code is a public notice and/or information provided in connection with the above-referenced matter.

If you have any questions, please feel free to contact me.

Sincerely,

Christian K. Miller, AICP  
City Planner

Enclosure(s)

cc: File Outdoor Seating, w/o enclosure(s)

*document5*

# Neighborhood Business District Study

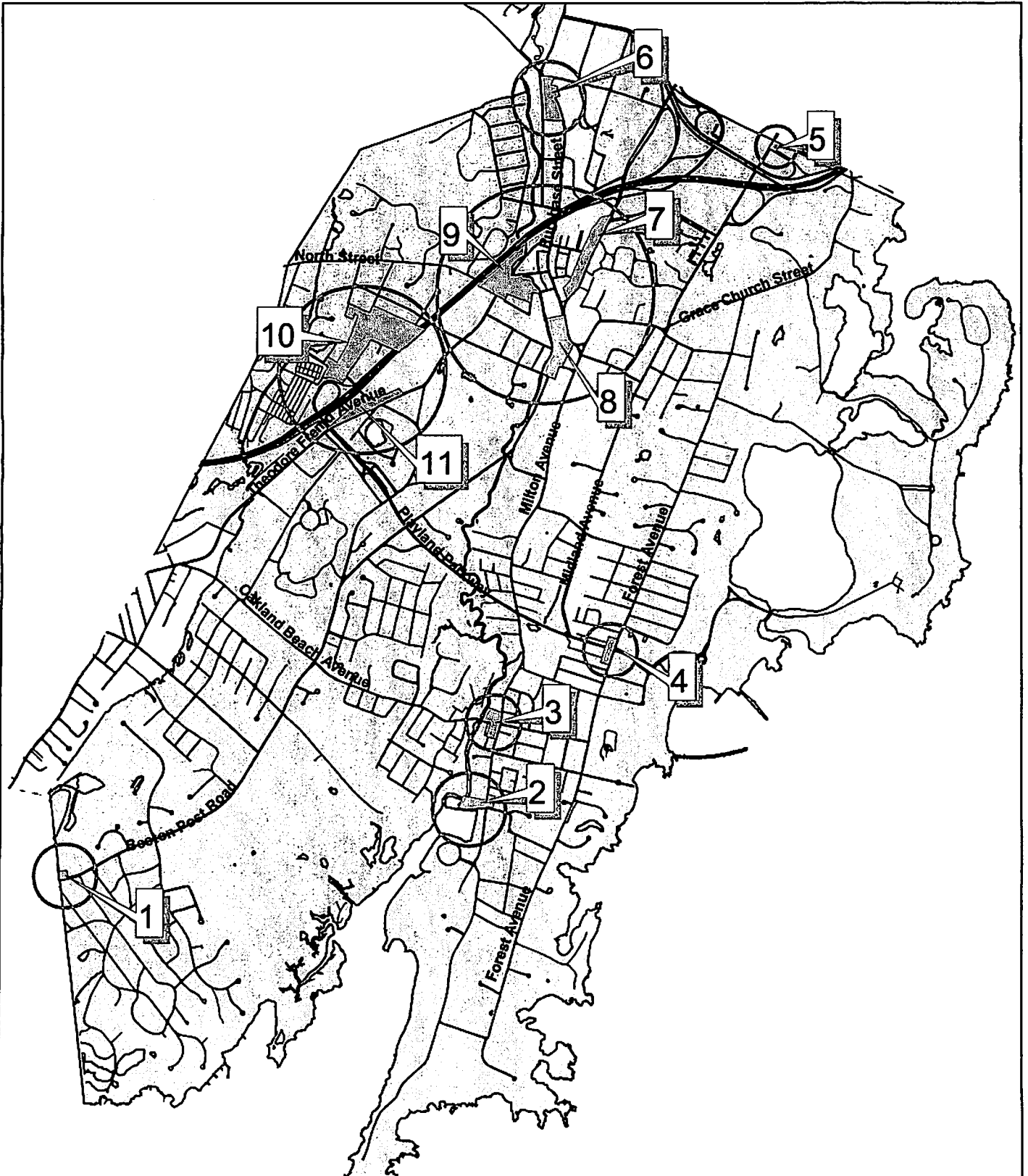


Figure 1: Neighborhood Business Districts

B-1 Zoning District Boundary  
Roads

Last Revised: Jan. 2005



Note: This map is intended for general planning purposes only.



# CITY COUNCIL AGENDA

NO. 5

DEPT.: City Manager

DATE: June 15, 2009

CONTACT: Francis J. Culross, City Manager

**AGENDA ITEM:** Public hearing to restrict parking on Mead Place.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** A proposal has been put forward from the residents of Mead Place to restrict parking to single-sided parking on the north side of Mead Place. The preferred hours/days of regulation would be Monday to Saturday from 7am to 6pm, excluding Sunday.

See attached.

**PROPOSED LOCAL LAW  
CITY OF RYE  
LOCAL LAW NO.    - 2009**

**A local law amending Chapter 191, Vehicles and Traffic, of the Code of the City of Rye by amending Section 191-19.1, Parking prohibited certain hours, by adding a section of Mead Place to the streets where parking is restricted during certain hours.**

Be it enacted by the Council of the City of Rye as follows:

**Section 1. Section 191-19.1 of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye is hereby amended to read as follows:**

**§191-19.1. Parking prohibited certain hours.**

No person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Fairway Avenue [Added 2-28-2001]	West	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.	From Hewlett Avenue to Valleyview Avenue
Hewlett Avenue [Added 2-28-2001]	West	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.	Between the crosswalks extending from Robert Crisfield Place to the fire lane driveway entrance to the driveway exit
<u>Mead Place</u>	<u>North</u>	<u>Monday through Saturday from 7:00 a.m. to 6:00 p.m.</u>	<u>Tax lots designated as Section 146-7, Block 2, Lots 50 – 56 consecutively</u>
Parsons Street	South	7:30 a.m. to 8:30 a.m.	Between the Middle School and High School driveways

**Section 2. This local law will take effect immediately upon filing in the Office of the Secretary of State.**

(new material is underlined>)

10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964

10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964  
10/11/1964



# CITY COUNCIL AGENDA

NO. 6

DEPT.: City Manager's Office

DATE: June 15, 2009

CONTACT: Frank J. Culross, City Manager

**AGENDA ITEM:** Public hearing to adopt a local law for Senior Citizen Rent Increase Exemption (SCRIE).

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:**

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:** A proposal has been put forward to adopt a local law to provide for a Senior Citizen Rent Increase Exemptions (SCRIE). Also included is an exemption for disabled persons (DRIE). Both SCRIE and DRIE provide eligible residents age 62 and older, who live in rent controlled or rent stabilized apartments, an exemption to rent increases if their incomes and the proportion of their income spent on rent meet eligibility guidelines. This is available in New York City and in several municipalities in Nassau and Westchester counties. When a landlord raises the rent, tenants with SCRIE/DRIE do not have to pay the increased rate. Instead of the increased rent, the landlord is eligible for an equivalent credit on his or her property taxes.

See attached Draft Local Law.



**LOCAL LAW  
CITY OF RYE NO. \_\_\_ OF 2009**

**A Local law to amend Chapter 177 "Taxation" by adding Article XI "Abatement for Rent-Controlled and Rent-Regulated Property Occupied by Senior Citizens or Persons With Disabilities" to the City Code of the City of Rye.**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1.** Chapter 177 "Taxation" is hereby amended by adding Article XI "Abatement for Rent-Controlled and Rent-Regulated Property Occupied by Senior Citizens or Persons With Disabilities" as follows:

§ 177-70. Purpose.

The City Council of the City of Rye finds it in the public interest to adopt legislation in accordance with the enabling legislation enacted by the State Legislature with respect to tax abatements of real property taxes for senior citizens and disabled persons living in rent-regulated/rent-controlled properties.

§ 177-71. Definitions.

The following terms "disabled person," "dwelling unit," "head of household," "income," "income tax year," "increase in maximum rent or legal regulated rent" and "members of the household," as used in this article, shall have the definitions ascribed to them in the Real Property Tax Law § 467-b, Subdivision 1.

As used in this Article, the following terms shall have the meanings indicated:

**DISABLED PERSON** – 1) A person currently receiving social security disability insurance (SSDI) benefits, or disability pension or disability compensation benefits provided by the United State Department of Veterans Affairs; or 2) a person who previously received SSI or SSDI disability benefits and is currently receiving medical association benefits based on a determination of disability pursuant to Social Services Law Section 366.

**DWELLING UNIT** – That part of a dwelling unit in which a head of the household resides and which is subject to either the Emergency Housing Rent Control Law or to the Rent and Rehabilitation Law or to the Emergency Tenant Protection Act of 1974.

**HEAD OF HOUSEHOLD** – A person who is 62 years of age or older, or who qualifies as a person with a disability pursuant to the definition of "disabled person" as defined in this section and is entitled to the possession or to the use or occupancy of a dwelling unit.

**INCOME** – Income from all sources after deduction of all income and social security taxes and includes social security and retirement benefits, supplemental security income and additional state payments, public assistance benefits, interest, dividends, net rental income, salary or earnings, and net income from self-employment, but shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the Social Security Act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (All items United States city average) for such year which take effect after the date of eligibility of head of the household receiving benefits hereunder whether received by the head of the household or any other member of the household.

**INCOME TAX YEAR** – A twelve-month period for which the head of household filed a federal personal income tax return, or if no such return is filed, the calendar year.

**INCREASE IN MAXIMUM RENT OR LEGAL REGULATED RENT** – Any increase in the maximum rent or the legal regulated rent for the dwelling unit in question pursuant to the applicable rent control law or to the Emergency Tenant Protection Act of 1974, respectively, or such classes of increase thereunder as may be specified in a local law, ordinance or resolution enacted pursuant to this section, over such base period rent as specified in New York State Real Property Tax Law § 467-b, subdivision 3, paragraph c or d.

**MEMBERS OF THE HOUSEHOLD** – The head of household and any person, other than a bona fide roomer, boarder or subtenant who is not related to the head of the household, permanently residing in the dwelling unit.

~~§ 177-72.~~ Abatement of taxes.

All taxes of the City of Rye imposed on real property containing a dwelling unit by an amount not in excess of that portion of any increase in maximum rent or legal regulated rent which causes such maximum rent or legal regulated rent to exceed 1/3 of the combined income of all members of the household are hereby abated.

~~§ 177-73.~~ Exception; deductions.

- A. The tax abatement provided under this article shall not be granted if the combined income of all members of the household for the income tax year immediately preceding the making of an application under this article exceeds the amount listed in section B below; provided that, when the head of household retires or becomes disabled before commencement of such year and the date of filing the application, the income of such year may be adjusted by

excluding salary or earning and projecting the retirement income over the entire period of such year.

- B. Maximum allowable income pursuant to the real Property Tax Law § 467-b shall be \$29,000.
- C. Upon issuance of a tax abatement certificate as hereinafter provided, the amount of increase in maximum rent or legal regulated rent set forth in said certificate shall be deducted from the legal maximum rent or legal regulated rent chargeable for a dwelling unit of head of the household.

§ 177-74. Application for certificate.

The head of the household must apply before January 29 of each year to the Office of Rent Administration, Division of Housing and Community Renewal, of the State of New York (the "Office of Rent Administration"), for a tax abatement certificate on a form prescribed by said office. A tax abatement certificate setting forth an amount not in excess of the increase in maximum rent or legal regulated rent for the taxable period shall be issued by said office to each head of the household who is found to be eligible under the article. Copies of such certificate shall be issued to the owner of the real property containing the dwelling unit of the head of the household and to the City Clerk of the City of Rye.

§ 177-74. Eligibility.

Eligibility shall be determined as of the date of receipt in the Office or Rent Administration of a properly completed form.

§ 177-75. Portion of taxes deducted or remitted.

- A. The portion of the increase in maximum rent or legal regulated rent for the taxable period set forth in a tax abatement certificate shall be deducted from the local taxes levied by the City of Rye on real property containing one dwelling unit of a head of the household to whom the certificate has been issued, effected the beginning of the next fiscal year after the application has been filed, provided that the application has been filed before the City's taxable status date.
- B. Upon the vacancy of a dwelling for which an abatement certificate has been issued, the owner thereof shall remit a pro rata portion of the tax abatement to the City, and any amount due by reason of such vacancy shall be a lien upon the property on and after the date of such vacancy.

§ 177-76.

Where a tax abatement certificate has been issued to a head of the household as authorized by this article and the landlord collects the increase in the maximum or legal regulated rent for a dwelling unit occupied by such head of the household, the amount of such abatement shall be deemed a rent overcharge under the applicable rent control or rent regulation law.

**Section 2.** Severability

If any section of this local law shall be held unconstitutional, ~~invalid~~, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or ~~invalidate~~ the remainder thereof.

**Section 3.**

This local law shall take effect immediately upon filing in the Office of the Secretary of State.



# CITY COUNCIL AGENDA

NO. 7

DEPT.: Corporation Counsel

DATE: June 15, 2009

CONTACT: Kevin J. Plunkett, Esq.

**AGENDA ITEM:** Public hearing on the Special Permit Application (#TC011) submitted by MetroPCS New York, LLC to co-locate a wireless telecommunications facility on the roof top of 66 Milton Road.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:** MetroPCS New York, LLC is seeking approval to co-locate a wireless telecommunications tower on the roof of the Blind Brook Lodge located at 66 Milton Road. Verizon, Nextel, Spring PCS, T-Mobile, and AT&T have all received approvals to operate wireless facilities at the building.

Metro PCS currently has no facilities in the City of Rye. Their proposed facility would provide wireless service coverage along Route 1, Midland Avenue, Milton Road, I-95 and the I-95/I-287 Interchange as well as the surrounding local roads and areas in the vicinity of 66 Milton Road.

The application was reviewed by the Board of Architectural Review (BAR) and consultant.



# CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager

DATE: July 10, 2009

CONTACT: Francis J. Culross, Acting City Manager

**AGENDA ITEM:** Consideration to set a public hearing for August 12, 2009 to amend Chapter 191 Vehicles and Traffic" by amending Article IV "Removal and Storage of Vehicles" to the City Code of the City of Rye.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:**

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** This local law authorizes the City of Rye to remove a vehicle on any City street if it is left unattended for more than 48 hours. Currently, New York State Vehicle and Traffic Law requires that there be an underlying parking violation (2 hour limit violation, etc.) before the 48 hour time limit begins to run before the vehicle can be removed.

**LOCAL LAW**  
**CITY OF RYE NO. \_\_\_\_ OF 2009**

**A Local law to amend Chapter 191 "Vehicles and Traffic" by amending Article IV  
"Removal and Storage of Vehicles" to the City Code of the City of Rye.**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1.** Chapter 191 "Vehicles and Traffic" is hereby amended by amending Article IV "Removal and Storage of Vehicles" as follows:

§ 191-22. Removal of vehicles authorized.

- A. When any vehicle is parked or abandoned on any highway within the City of Rye during a snowstorm, flood, fire or other public emergency which affects that portion of the highway upon which said vehicle is parked or when any vehicle is found unattended on any highway within said City where such vehicle constitutes an obstruction to traffic or when any vehicle is parked or abandoned on any highway within said City where stopping, standing or parking is prohibited or when any vehicle has been parked more than three times within two weeks after the issuance of a parking violation appearance ticket against such vehicle at that location or when any vehicle is illegally parked or abandoned in any public place and has three or more outstanding parking violations or has unpaid parking violation fines of at least \$100, said vehicle may be removed by the Police Department of the City of Rye or its duly authorized agent. The term "snowstorm" shall include not only the period of actual snowfall but such additional period thereafter as may be necessary to remove the fallen snow.
- B. It shall be unlawful to, and no motor vehicle may, be parked on any public street or parking area for more than 48 consecutive hours. Any automobile found to be parked on any public street or parking area for more than 48 consecutive hours may be removed by the Police Department of the City of Rye or its duly authorized agent and impounded, and such removal and any related charges thereto shall be paid by such owner, his agent or representative.

**Section 2.** Severability

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 3.**

This local law shall take effect immediately upon filing in the Office of the Secretary of State.



# CITY COUNCIL AGENDA

NO. 10

DEPT.: City Manager's Office

DATE: June 29, 2009

CONTACT: Frank J. Culross, City Manager

**AGENDA ITEM:** Appointment of one member to the Emergency Medical Services Committee for a three-year term ending June 30, 2012.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** Approval by Mayor and City Council of the appointment of Mr. Michael Borrelli, the Village of Rye Brook Community Representative, to the Emergency Medical Services Committee.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

## **BACKGROUND:**

The term of Michael Borrelli, the Community Representative to the Emergency Medical Services Committee from the City of Rye, expired on June 30, 2009. Section 3A of the Inter-Municipal Agreement states that the community representatives shall be "recommended by the Corps and ratified by joint resolution of the municipalities." The City of Rye and the Villages of Port Chester and Rye Brook have joined in this inter-municipal cooperative.

Mr. Borrelli has expressed his willingness to continue as Rye Brook's representative and the Corps recommends his reappointment. The Village of Rye Brook has approved Mr. Borrelli's nomination and a copy of the certified resolution is attached.





# **PORT CHESTER-RYE-RYE BROOK EMERGENCY MEDICAL SERVICES**

6/22/09

**Received**

**JUN 25 2009**

**City Manager's Office  
Rye, New York**

Mr. Frank Culross  
Manager  
The City of Rye  
1051 Boston Post Road  
Rye, N.Y. 10580

Dear Mr. Culross:

The Inter-Municipal Agreement for Emergency Medical Services established the Emergency Medical Services Committee (EMSC). The Term of Mr. Michael Borrelli, the Community Representative to the Committee from the Village of Rye Brook will expire on June 30<sup>th</sup> 2009. Mr. Borrelli has been an active member of the EMSC and has expressed his desire to continue as Rye Brook's representative.

Section 3A of the Inter-Municipal Agreement states that the community representative shall be "recommended by the Corps and ratified by joint resolution of the municipalities". In accordance with the agreement I respectfully submit Michael Borrelli for reappointment to the EMSC for a term of three (3) years, ending June 30, 2012. I request this matter be placed on the agenda of the next scheduled City of Rye Board meeting.

Please note that the Village of Rye Brook has approved Mr. Borrelli's nomination and a copy of the certified resolution is included.

Please don't hesitate to contact me with any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott T. Moore", written over a horizontal line.

Scott T. Moore  
EMS Administrator

Cc: Michael Borrelli

"Caring for the Community since 1968"  
417 Ellendale Avenue Port Chester, N.Y. 10573  
Phone: 914-939-8112 Fax: 914-939-1075 EMSADM2@aol.com

On a motion made by Trustee Sanders Romano and seconded by Trustee Santon, the following resolution was adopted.

**CONSIDERING AN APPOINTMENT OF THE COMMUNITY  
REPRESENTATIVE TO THE EMERGENCY MEDICAL SERVICES  
COMMITTEE (EMSC)**

**WHEREAS**, the inter-municipal agreement, between the Village Rye Brook, City of Rye and Village of Port Chester, for emergency medical services provides for an Emergency Medical Services Committee; and

**WHEREAS**, Michael Borrelli, the community representative from the Village of Rye Brook will expire on June 30, 2009; and

**WHEREAS**, Michael Borrelli has expressed a desire to remain the Village of Rye Brook representative on the Emergency Services Committee (EMSC).

**NOW, THEREFORE, BE IT RESOLVED**, that the Village of Rye Brook hereby approves the re-appointment of Michael Borrelli as the Community Representative to the Emergency Medical Services Committee (EMSC) for the Village of Rye Brook for a three year term ending June 30, 2012.

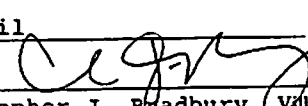
TRUSTEE BROWN	AYE
TRUSTEE SANDERS ROMANO	AYE
TRUSTEE ROSENBERG	AYE
TRUSTEE SANTON	AYE
MAYOR FEINSTEIN	ABSENT

State of New York  
County of Westchester  
Village of Rye Brook

} ss.:

I hereby certify that this is the Resolution adopted by the Board of Trustees of the Village of Rye Brook which was duly passed by said Board on April 28, 20 09

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the Village of Rye Brook, this 30 day of April, 20 09

  
Christopher J. Bradbury, Village Clerk



# CITY COUNCIL AGENDA

NO. 11

DEPT.: Boat Basin

DATE: July 8, 2009

CONTACT: Peter T. Fox, Boat Basin Supervisor

**AGENDA ITEM:** Designation of Nominating Committee for the Boat Basin elections and appointment of the Chairman.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council designate the Nominating Committee and appoint a Chairman.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

See attached memorandum of Boat Basin Supervisor dated July 8, 2009.

**City of Rye Marina  
Memorandum**

**Memo To:** Frank Culross, City Manager  
Rye City Council

**From:** Peter T. Fox, Boat Basin Supervisor

**Subject:** 2009 Nominating Committee

**Date:** July 8, 2009

**The Following names have been appointed for the Boat Basin Nominating Committee for the 2009 Boat Basin Commission Elections:**

- 1. Gregory Gavlik - Commission Member not up for re-election.**
- 2. George Szczerba – Permit holder elected to Nominating Committee in last election August 2008.**
- 3. Frank Mangiamele to serve on the Nominating Committee.**

**Please submit to the City Council for approval, call me if any further information is needed.**

**Thank you for your consideration.**



# CITY COUNCIL AGENDA

NO. 12

DEPT.: Fire

DATE: July 7, 2009

CONTACT: Lieutenant James Dianni, Fire Inspector

**AGENDA ITEM:** Resolution to accept a donation from the VFW Post 7550 for repairs to the World War I Monument.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the City Manger be authorized to accept the donation from the VFW Post 7550.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The VFW Post 7550 is dissolving and is making a donation of all accrued monies to the City of Rye to be used towards the necessary repairs to the World War I Monument.

See attached regarding proposed repairs to the WWI monument.

From: John Saunders

Conservation Services LLC.

105 Buckingham rd #6C

Brooklyn, New York 11201

203-458-2845

### Conservation of the Rye, New York WW I Memorial

The memorial consists of a light grey granite flagstaff base with an integral bench surround, eight bronze inscription panels, with eight European battlefield locations in bronze letters above the panels.

The following repairs are proposed:

#### BRONZE WORK

##### Clean and refinish

The eight inscription panels will be cleaned with soft bristle brushes and Orvus non-anionic detergent. After cleaning, three applications of Permalac, a clear lacquer specifically designed for non ferrous exterior metal finishing will be applied to seal and protect each panel. A final renewable application of paste wax will be applied and buffed on all bronze work.

##### Repair, Replace, Reattach

Two of the panels are currently loose and four bronze rosettes used to secure the panels are missing. Two panels been bent out from the stone surface and had the gaps filled with a caulking material. One bronze Letter "N" is missing from a battlefield inscription.

Molds will be made on site of a rosette and a letter "N" and casts made in silicon bronze for replacement. The loose panels will be securely reattached utilizing the cast bronze replacement rosette anchors. The bent panels will have all caulking removed, be straightened and reattached as necessary. The replacement bronze letter N will be securely attached in the appropriate location.

#### STONE WORK

The granite has green cupric staining located below each bronze panel, this will be removed with the application of a localized chemical poultice that is applied and removed by hand. All stone surfaces will be washed with Orvus detergent and soft bristle brushes to remove any residue. All open or loose mortar joints will be repointed using appropriate type S mortar.

Photo documentation of all conditions, processes and final results will be taken, and submitted upon project completion in digital CD format.

COST : \$5250

John Saunders, principal conservator of Conservation Services LLC. currently serves as Monuments Conservation Manager for the City of New York.

Additional monument conservators

Conservart LLC – Francis Miller 19 Lansdown Ave, Hamden CT 06517 203-248-2530  
[conservart@sbcglobal.com](mailto:conservart@sbcglobal.com)

Wilson Conservation 100 E5th st Brooklyn NY 11218 718-852-8944 [objects@wilsonconservation.com](mailto:objects@wilsonconservation.com)

G & L Popian LLC. Yonkers, NY 914-779-0995 [arthertitage@verizon.net](mailto:arthertitage@verizon.net)

ATTN: Pam

491093

## QUOTE

Q U O T E

NAME

ADDRESS

CITY, STATE, ZIP

SHIP TO

ADDRESS

CITY, STATE, ZIP

ORDER NUMBER

DEPARTMENT

SALESPERSON

WHEN SHIP

TERMS

HOW SHIP

DATE

QUANTITY

DESCRIPTION

PRICE

AMOUNT

8

CAST BRONZE PLAQUES  
RE-FINISHED

600.00

4800.00

BUYER:

KEEP THIS SLIP FOR REFERENCE

8100

**KEEP THIS SLIP FOR REFERENCE**

(WWI MONUMENT)

⑦ \$600 / PLAQUE

- PRIVATE SOURCES





# CITY COUNCIL AGENDA

NO. 13

DEPT.: Engineering

DATE: July 7, 2009

CONTACT: George Mottarella, City Engineer

**ACTION:** Bids for annual street resurfacing, Contract No. 2009-04.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

N/A

**RECOMMENDATION:** That the City Council award the bid to the low bidder, Bilotta Construction Corporation, in the amount of \$607,553.75 as recommended by the City Engineer.

**IMPACT:** Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:** Using the City of Rye's Pavement Management System, the Engineering Department has prioritized a list of streets for resurfacing. Utility companies have been notified of the selected streets in order to coordinate construction activities and avoid excavation of new roadways.

The City Engineer's recommendation and bid results are attached for your review.



**CITY OF RYE**

CITY HALL • RYE, NEW YORK 10580

TELEPHONE (914) 967-5400

Engineering Department (914) 967-7676

**DATE:** July 8, 2009

**TO:** Frank Culross, City Manager


**FROM:** George Mottarella P.E., P.L.S.

**RE:** Bid Recommendation for Contract 2009-04 – Annual Street Resurfacing

I have checked and tabulated the two (2) bids received for the above referenced contract. A copy of the bid results is attached for your convenience. I recommend that the bid be awarded to the low bidder, Bilotta Construction Corporation, in the amount of six hundred seven thousand, five hundred fifty three dollars and seventy five cents (\$607,553.75). They have done quality work for us in the past.

There are sufficient funds for this project in this year's budget.

Very truly yours,



George J. Mottarella, P.E., P.L.S.  
City Engineer

**Contract No. 2009-04 - Annual Street Resurfacing Contract**

Contractor	Contractor's Bid	Engineer's Check	Dollar Amount Above Low Bid	% Above Low Bidder	Position
Bilotta Construction Corp.	\$607,553.75	\$607,553.75	\$0.00	0.00%	1
ELQ Industries	\$776,650.00	\$776,650.00	\$169,096.25	27.83%	2



# CITY COUNCIL AGENDA

NO. 14

DEPT.: Public Works

DATE: June 26, 2009

CONTACT: Peter Anfuso

**AGENDA ITEM:** Resolution to declare certain equipment in the Department of Public Works as obsolete.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the City Council adopt the following resolution:

Whereas, the City has been provided with a list of City equipment that the Department of Public Works has identified as being obsolete, and,

Whereas, the Department of Public Works has recommended that said equipment be declared obsolete, now, therefore, be it

Resolved that said equipment is declared obsolete, and, be it further

Resolved, that authorization is given to the City Comptroller to dispose of said equipment in a manner that will serve in the best interests of the City.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other: Obsolete equipment should be disposed of to minimize wasted space.

**BACKGROUND:** The attached list of equipment is currently obsolete.

See attached.

DATE: June 25, 2009  
TO: Frank J. Culross, City Manager  
FROM: Peter Anfuso, General Foreman  
RE: Request to Dispose of Obsolete Equipment

---

The Department of Public Works would like to dispose of two pieces of obsolete equipment that are on the City's list of equipment. They are as follows:

1. Scotchlite Vacuum Applicator, bar code number 000344, assigned to the Sign Shop. This equipment is so out-dated it has no value at auction and would be disposed of altogether.
2. Drill Press, bar code number 000283, assigned to the Maintenance Garage. This drill press is at least 60 years old and has not been used in at least 20 years. It has no value at auction and would be disposed of in the metal pile.

If you need any further information, I am available to discuss this at your earliest convenience.

---

*Public Works*  
*141 Oakland Beach Avenue*  
*Rye, NY 10580*

*(914) 967-7464 phone*

*(914) 967-4107 fax*



# CITY COUNCIL AGENDA

NO. 18

DEPT.: City Clerk

DATE: June 15, 2009

CONTACT: Dawn F. Nodarse

**AGENDA ITEM:** Draft of the unapproved minutes of the regular meeting of the City Council held on June 10, 2009, as attached.

**FOR THE MEETING OF:**

July 15, 2009

**RYE CITY CODE,**

**CHAPTER**

**SECTION**

**RECOMMENDATION:** That the Council approve the draft minutes.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:**

Approve the Unapproved Minutes of the regular meeting of the City Council held on June 10, 2009.

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on June 10, 2009 at 8:00 P.M.

**PRESENT:**

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
PAULA J. GAMACHE  
CATHERINE F. PARKER  
GEORGE S. PRATT  
JOSEPH A. SACK  
Councilmembers

**ABSENT:** None

The meeting convened at 7:10 p.m. Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn into Executive Session at 7:11 p.m. to discuss personnel matters. Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to adjourn the Executive Session at 8:00 p.m. The regular meeting convened at 8:04 p.m.

**1. Pledge of Allegiance**

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

**2. Roll Call**

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

**Announcements**

Mayor Otis started the meeting with the following announcements and congratulations:

- Congratulations to the Rye High School Lacrosse team, who were recently eliminated from the playoffs in their championship game, for their good year.
- Congratulations to Ryan Feeley who was honored by the Lions Club with their Athlete of the Year award.
- Congratulations to Corporation Counsel Kevin Plunkett, Deputy Corporation Counsel Kristen Wilson and consultants Laura Tessier and Kevin Phillips for their work, which resulted in the Administrative Law Judge in the Beaver Swamp Brook matter issuing a decision that stopped Harrison from getting a permit to add additional fill. There will

now be a full adjudication hearing on the merits of the request and the City will have full-party status in the matter.

- A note of appreciation to all the groups that participated in the recent workshop on the September 11<sup>th</sup> Memorial Gazebo. Their thoughtful discussion led to a decision on where to locate the Gazebo.
- A grant of \$350,000 has been awarded from the New York State Office of Parks, Recreation and Historical Preservation for the purchase of the Bird homestead property. The property will be saved entirely from funds coming from either grants or outside funds raised by the Save the Bird Homestead Committee.

3. Residents may be heard who have matters to discuss that do not appear on the agenda

*Sis D'Angelo, 110 Wappanocca Avenue*, came to thank the City for finishing the work on the Peck Avenue sidewalk. She also offered thanks to City Manager Culross and Councilwoman Parker for having a flower pot removed from a sidewalk on Purchase Street that was blocking access to a handicapped parking space.

*Henry King, 76 Coolidge Avenue*, said the flag on the old Biltmore Jeep building was in bad condition and should be removed and properly disposed of.

*Greg Faughman, 131 Purchase Street*, thanked the Council for not extending the parking meter hours into the evening.

*Steve Feeney, 54 Hughes Avenue*, responded to the memorandum read at the last City Council meeting by former Mayor John Carey, on behalf of himself and three other residents, regarding the Osborn litigation. Mr. Feeney it was important to contravene the misinformation propagated in the memo. His presentation, developed from his personal files on the matter, touched on the following points:

- The action consists of three parties (The Osborn, City of Rye and School District) and was commenced by The Osborn.
- The issue is real estate taxes imposed on The Osborn from 1996 on, as a result of the "Osborn 2000" Renovation/Expansion project that changed the business operation model of the facility.
- There are three legal issues: the charitable exemption The Osborn has held since 1892, the hospital exemption and the assessed value of the land and buildings.
- The Court ruled: (1) The Osborn was no longer entitled to the charitable exemption; (2) the hospital exemption was based on square footage and only applied to 18% of the facility, making the remaining 82% of the facility taxable; and (3) The Osborn's assessed valuation methodology was accepted and upheld. The rulings are being appealed.
- Since 1997 \$20 million in tax revenue has been collected from The Osborn.
- Contrary to claims made that the litigation has cost \$15 million, the defense expenses have been \$8.7 million (94% incurred by the School District and 6% by the City).
- The School District has received \$12 million in revenue, the City has received \$4 million and the County has received \$4 million. Based on the Court's decision, the School



District refunded \$2.8 million and the County refunded \$900,000, the 18% portion of taxes collected that represented the hospital exemption. The City has not refunded its portion of the 18% yet (currently with interest approximately \$1 million).

- If litigation figures are subtracted from the amount collected in taxes, the net "profit" to the School District is \$1 million, to the City is \$3.5 million (without refunding the 18%) and to the County \$3.1 million, representing \$7.6 million in revenue to the three jurisdictions.
- The Osborn could change their business model to allow for tax breaks for their residents.
- Settlement discussions were held without attorneys at least three times among representatives of the three parties.
- Settlement proposals failed. The City and School District would not agree to a proposal that cut the County of Westchester out of the picture and split the County's portion of the tax. The 50-year PILOT (Payment In Lieu Of Taxes) proposal was too low.
- There has been no mention of the 1970's PILOT negotiated with The Osborn for the last 25 years.
- The Osborn's strategy is to delay. Bonds sold by the New York State Dormitory Authority in 2000 for The Osborn project represented the facility as being tax-exempt. If no longer a tax-exempt facility the bonds will become taxable.

Councilman Cunningham thanked Mr. Feeney for his presentation and asked that it be put on the City website.

*Joe Murphy, 57 Franklin Avenue*, spoke about Highland Hall and developments relative to major construction improvements. There is a proposal to add a \$15 per room increase to the rent. He urged the City to pass a Resolution that would make senior citizens eligible for SCRIE (Senior Citizen Rent Increase Exemption), which would exempt senior citizens living in Highland Hall from paying the proposed increase. Corporation Counsel Plunkett said that his office will work on the appropriate documentation for the July 15<sup>th</sup> meeting. Mayor Otis pointed out that capital improvement increases become a permanent part of the rent.

Mayor Otis made a motion, seconded by Councilman Pratt and unanimously carried, to adopt the following Resolution:

**WHEREAS**, the Council wishes to amend Chapter 177, Taxation, of the Code of the City of Rye for the purpose of adding a new Article XI "Abatement for Rent-Controlled and Rent-Regulated Property occupied by Senior Citizens or Persons with Disabilities"; and

**WHEREAS**, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on July 15, 2009 at 8:00 P.M. at City Hall, Boston Post

Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE**  
**CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Chapter 177, Taxation, of the Code of the City of Rye, for the purpose of adding a new Article XI "Abatement for Rent-Controlled and Rent-Regulated Property occupied by Senior Citizens or Persons with Disabilities.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 15th day of July, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 177, Taxation, of the Code of the City of Rye for the purpose of adding a new Article XI "Abatement for Rent-Controlled and Rent-Regulated Property occupied by Senior Citizens or Persons with Disabilities.

Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse  
City Clerk  
Dated: July 3, 2009

*Ray Tartaglione*, asked for clarification as to what had happened to the letter he provided to the City regarding conditions on Hen Island. City Manager Culross said it has been forwarded to the County Health Department by the City Building Department. Mr. Tartaglione asked if the City was going to inspect the septic systems or potable water systems on the Island. Mr. Culross reiterated that the County Health Department is responsible for inspections related to that portion of the Code. Mr. Tartaglione showed photos of water collection troughs on Hen Island and asked why the City allowed it to continue. Mayor Otis said that the City has been very solicitous to Mr. Tartaglione and has taken his issues seriously by referring his letter to City staff and the County but does not know what else the Council can do for him. He referred him to the City Manager for discussions on how his issues were being handled. Mayor Otis suggested that Mr. Tartaglione bring his concerns about the County Health Department to the County Board of Legislators. Mayor Otis asked for a voice vote of the Council regarding this suggestion. All members of the Council unanimously agreed.

4. Public hearing on proposed cost assessment on the benefited properties of the Kirby Lane North sewer project

Mayor Otis opened the public hearing. City Manager Frank Culross said that a residents' meeting had been held the prior week in order to answer questions regarding the Kirby Lane North Sanitary Sewer Special Assessment District, which consisted of 30 homes that received sanitary sewer improvements. Additionally, the City facilitated 12 of those properties in receiving water and gas improvements. The County Health Department has signed off on the improvements. This public hearing is the final step in the process in order to assess the cost of the project to the property owners. The amount can be paid in a lump sum or in special assessments over a 30 year period. The City received temporary funding through the New York State Environmental Facilities Corporation (EFC) and the bonding for the permanent funding will take place in the Fall. The assessment will be divided equally and the actual assessments will be based on what the bonds sell for. The City spent \$400,000 on storm drain improvements and paving improvements that were done at the same time. Mayor Otis added that the portion of the funding that is coming from the EFC is at a lower rate than the portion the City will bond for and, therefore, will lower the cost to the residents. Mayor Otis asked if there was any public comment. There being none, he closed the public hearing.

Councilman Pratt made a motion, seconded by Councilwoman Parker to adopt the following resolution:

**WHEREAS**, the City Council of the City of Rye voted on February 16, 2005 to create a special assessment district to provide sanitary sewer improvement benefitting 30 property owners within a district known as the "Kirby Lane North Sanitary Sewer Special Assessment District" in response to a petition filed by those residents and following a public hearing and;

280 Grace Church Street (146-8-2-19)	350 Grace Church Street (146-8-2-33)	7 Kirby Lane North (146-8-1-20)
286 Grace Church Street (146-8-29-2)	355 Grace Church Street (146-8-1-11)	9 Kirby Lane North (146-8-1-19)
289 Grace Church Street (146-8-1-24)	360 Grace Church Street (146-8-2-32)	11 Kirby Lane North (146-8-1-18)
290 Grace Church Street (146-8-2-29-1)	365 Grace Church Street (146-8-1-10)	12 Kirby Lane North (146-8-1-17)
300 Grace Church Street (146-8-2-29-3)	370 Grace Church Street (147-5-1-8)	14 Kirby Lane North (146-8-1-16)
309 Grace Church Street (146-8-1-23)	385 Grace Church Street (146-8-1-9)	15 Kirby Lane North (146-8-1-4)
320 Grace Church Street (146-8-2-31)	3 Kirby Lane North (146-8-1-22)	16 Kirby Lane North (146-8-1-15)

330 Grace Church Street (146-8-2-34)	4 Kirby Lane North (146-8-1-14)	18 Kirby Lane North (146-8-1-7)
331 Grace Church Street (146-8-1-13)	5 Kirby Lane North (146-8-1-21)	25 Kirby Lane North (146-8-1-5)
345 Grace Church Street (146-8-1-12)	6 Kirby Lane North (146-8-1-8)	27 Kirby Lane North (146-8-1-6)

**WHEREAS**, cost of the sanitary sewer improvement project has now been established by the City Engineer at \$2,435,835 and;

**WHEREAS**, the City of Rye will finance these costs through funding received from the Environmental Facilities Corporation (EFC) in the amount of \$2,373,374 (30 years @ 2.75%) and through bonding by the City in the amount of \$62,461 (30 years @ 5.00%) totaling \$2,435,835 and;

**WHEREAS**, the City Council hereby establishes December 31, 2009 as a date certain up to which a person may pay the entire sum in the full amount of \$81,195, or pay an annual special assessment of \$4,042 and;

**(\*Rates and annual amounts are estimated based on current available information. The Interest Expense will be determined at the time of the sale of the EFC bonds.)**

**WHEREAS**, in addition to providing sanitary sewer improvements, water/gas improvements were provided to the following (12) twelve properties within the "Kirby Lane North Sanitary Sewer Special Assessment District":

5 Kirby Lane North 146-8-1-21	6 Kirby Lane North 146-8-1-8	7 Kirby Lane North 146-8-1-20
9 Kirby Lane North 146-8-1-19	11 Kirby Lane North 146-8-1-18	12 Kirby Lane North 146-8-1-17
14 Kirby Lane North 146-8-1-16	15 Kirby Lane North 146-8-1-4	16 Kirby Lane North 146-8-1-15
18 Kirby Lane North 146-8-1-7	25 Kirby Lane North 146-8-1-5	27 Kirby Lane North 146-8-1-6

**WHEREAS**, the City of Rye will finance these costs through bonding in the amount of \$20,044 (30 years @ 5.00%), now, therefore, be it

**WHEREAS**, The City Council hereby establishes December 31, 2009 as a date certain up to which a person may pay the entire sum in full amount of \$1,670 or pay an annual special assessment of \$109 and, now therefore be it;  
**(\*Rates and annual amounts are estimated based on current available information.)**

**RESOLVED**, that the City of Rye approves the above referenced cost assessments related to the Kirby Lane North Sanitary Sewer Special Assessment District sanitary sewer improvement project and water/gas project.

**ROLL CALL**

**AYES:** Mayor Otis, Councilmembers Ball, Gamache, Parker, Pratt and Sack

**NAYS:**

**ABSENT:** Councilman Cunningham

5. Public hearing to amend Chapter 191, Vehicles and Traffic, of the Rye City Code by amending Section 191-9 A, left-hand turns, and Section 191.9.1, right-hand turns, to remove Garver Drive from the prohibited roads

Mayor Otis opened the public hearing. Councilman Cunningham said that the original restrictions on left and right-hand turns at Garver Drive were unnecessary and unenforceable and the proposed local law had been endorsed by the Traffic and Transportation Committee. City Manager Culross said the restrictions had been created as a result of a Planning Commission Resolution for a traffic issue that never materialized. Mayor Otis asked if there was any public comment. There being none, he closed the public hearing.

Councilman Pratt made a motion, seconded by Councilman Cunningham, to adopt the following local law:

**LOCAL LAW  
CITY OF RYE  
LOCAL LAW NO. 5 2009**

**A local law amending Chapter 191, Vehicles and Traffic, of the Code of the City of Rye by amending Section 191-9, Subsection A, Left turns, by deleting Garver Drive from the streets where left-hand turns are prohibited and amending Section 191-9.1, Right turns, by deleting Garver Drive from the streets where right-hand turns are prohibited**

Be it enacted by the Council of the City of Rye as follows:

**Section 1. Subsection A of Section 191-9 of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye is hereby amended to read as follows:**

**§ 191-9. Left turns.**

A. Left-hand turns are prohibited as described below during the hours indicated:

Location	Hours
Apawamis Avenue and Milton Road	7:30 a.m. to 8:30 a.m., Monday through Friday
From Boston Post Road at the intersection southbound with Cross Street (rear of police booth)	
Boston Post Road northbound at Liberty Lane (rear of flagpole)	
At the intersection of Cedar Street and the ramp leading to the westbound side of Station Plaza	7:30 a.m. to 8:30 a.m.
From the Citibank exit onto Cross Street	
From Cross Street at the driveway into Citibank	
Elm Place at Purchase Street	
From Grandview Avenue into the Rye Country Day School driveway closest to Cedar Street	
From Grandview Avenue into the Rye Country Day School driveway closest to Elizabeth Street	
At the high school parking lot exit and Milton Road	7:30 a.m. to 8:30 a.m., Monday through Friday
From the Oakland Beach Avenue driveway exit of 520 Milton Road	
At the driveway of Osborn School leading onto Boston Post Road	When school is in session, from 8:00 a.m. to 9:00 a.m. and 2:30 p.m. to 3:30 p.m.
From Palisade Road at Milton Road	
From Rye Country Day School's driveways	

closest to Hillside Avenue onto the Boston  
Post Road

Smith Street at Purchase Street

From the YMCA parking lot onto Mead  
Place

**Section 2. Section 191-9.1 of Chapter 191, Vehicles and Traffic, of the Code of the City of Rye is hereby amended to read as follows:**

**§ 191-9.1. Right turns**

Right-hand turns are prohibited as described below during the hours and days indicated:

<b>Location</b>	<b>Hours; Days</b>
From Mead Place onto YMCA parking lot	
From Rye Country Day School's driveway on the easterly side of Grandview Avenue closest to Elizabeth Street	

**Section 3. This local law will take effect immediately upon filing in the Office of the Secretary of State.**

**ROLL CALL**

**AYES:** Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Parker,  
Pratt and Sack

**NAYS:** None

**ABSENT** None

**6. Presentation on the Hydrology report regarding 980 Forest Avenue**

William Canavan, a hydrogeologist with the firm of HydroEnvironmental Solutions, Inc. (HES) presented a report on the drainage and a hydrogeologic review of 980 Forest Avenue, the property owned by Robert and Rita Schubert. Mr. Canavan outlined what his firm did and how their work related to the studies done by FPM Group for the City and to the drywell project on 3 Magnolia Lane.

- The field investigation involved walking the Schubert property, the Martin property at 950 Forest Avenue as well as Forest Avenue and Magnolia Place. The Gates property at 3 Magnolia Place was surveyed from the Martin property. HES did not have access to the Gates property.
- A file review was conducted of City files and the FPM report.
- Prior to drainage work done at 3 Magnolia Place in 2006 there was a high outflow into the Schubert pond, characteristic of an oligotrophic pond with the flow substantial or adequate even in drought conditions at approximately 42 gallons per minute. The pond is fed by both surface water and ground water. The ground water is referred to as base flow because it is there on a year round basis.
- Subsequent to the drainage work at 3 Magnolia Place, there is a high degree of eutrophication or lesser quality of water, a lower turn over rate and decreased base flow.
- No detailed hydrogeologic evaluation and subsurface investigation have been completed to determine the relationship between the drywell, the "French drain" and the pond.
- The drywell installation does not appear to have followed proper procedure and design requirements in the City Code.
- The Gates "as-built" plan does not show the connection from the drywell to the French drain that was shown on the "pre-built" plan; the "pre-built" does not show a basement sump pump discharging into the drywall, which is shown on the "as-built" without a discharge location; and the "pre-built" and "as-built" both show two inlets but according to the FPM report only one inlet is present in the drywell.
- The drainage system design for 3 Top Sail Lane also done in 2006 includes test data such as test pit logs, percolation rate tests and stormwater runoff calculations used to design drywells, which were not done for 3 Magnolia Lane project.
- The FPM report concluded that the only way Mr. Gates could have affected the local water balance into Mr. Schubert's pond was to hard pipe the runoff from his roof to the street and, therefore, did not divert stormwater from his property and all runoff water eventually enters the pond.
- HES does not agree with several FPM conclusions. (1) If the drywell was installed in a manner where it provided a preferential flow pathway from the "French drain" the groundwater base flow could have been disrupted, and, (2) the drywell may be acting as a groundwater sink.
- There is multiple "layer cake" geology over the "French drain". If the drywell was installed and breached the clay layer, ground water could migrate downward and the flow to the pond could be intercepted.
- FPM suggested diverting stormwater runoff from Forest Avenue into the pond but HES does not agree because of the poor quality of the runoff.
- FPM suggested drilling a well to augment flow to the pond. HES believes that flow from a shallow well would be poor and would de-water quickly. A bedrock well would be more expensive and would be a 300-500 foot well to get a flow of 10-30 gallons per minute. If the well were over pumped there could be saltwater intrusion or the water quality could be poor.
- The FPM suggestion that HES agreed with in general is connecting the Gates' drywell to the pond but a determination must be made of a connection between the drywell and the "French drain".
- HES believes many FPM claims are poorly substantiated.



- HES recommends dye testing (also suggested by FPM) as well as subsurface evaluation including test pits and long-term monitor wells to determine if the Gates drywell is acting as a groundwater sink.

Council comment and questions included:

- The detail referred to in the plans for 3 Top Sail Lane was required because the project went before the Planning Commission.
- Work was done on 1000 Forest Avenue, 950 Forest Avenue, 3 Top Sail Lane and 3 Magnolia Place; properties that are all part of an eight to ten acre watershed area.
- In December 1994 the Planning Commission approved a plan that reduced the average depth to one foot and would not replace the wetland with a pond. (HES interpretation is that the City approved the pond enhancement but told the Schuberts to leave the ephemeral wetland upgrading upstream alone.)
- Could 60,000 gallons of water flow through a narrow channel in a wetland on a daily basis and only leave a six inch deep by 40 square foot area? (Yes)
- The sluice gate created a pond and the pond level is larger than the original area.
- What is the flow of water currently? (Approximately 5 gallons per minute)
- A great deal of information could be learned by performing a dye test.
- There were five drywells put in during the 3 Top Sail Lane construction project that is closer to the Schubert property than the Gates' property. If there was extensive water control work done at a structure closer to the Schubert residence and pond than the Gates property or their drywell, is it possible that the runoff from the Top Sail Lane property could have been arrested and negatively impacted the flow of water into the pond? (It is possible but much of the water from Top Sail Lane would likely have flowed downhill to Forest Avenue and would not have been coincident to the flow in the French drain.)
- The FPM presentation indicated that water table changes occur unpredictably but with some regularity, can be isolated to certain spots and can occur on relatively short notice. Is that a stretch? (Seasonally, in that area the water table fluctuates a couple of feet up and down. If flow is disturbed with subsurface structures it can impact the flow of groundwater.)
- Are there any other inflows going to the pond? (Yes. There is a neighboring property that has an easement and drains to it.) The Martin project does not show detail of pipes going from their work into the Schubert pond. An agreement made with the Schuberts is in violation of the permits.
- There was no approval for the sluice gate. An artificial pond was created without a permit. Was there a permit required or granted for the construction of the sluice gate? (Mrs. Schubert contended that they had received a wetland permit to do the work.)
- FPM conducted a physical examination of all the different elements in question on the site. What physical examination did HES conduct on the Schubert property? (They walked the pond, photographed it, looked at the pond quality, looked at the outfall, and the influent.)
- The FPM report could find no other place where the water in the basin was going and said gravity would be taking the water toward the Schubert property. The HES report does not present physical evidence that the water is going elsewhere. (There is no physical evidence in the FPM report either.)

- What happens if the less permeable surface is pierced and water goes underneath? (With groundwater, the permeability of a unit dictates the flow. If there is a breach from a lower permeability to a higher permeability area the water can migrate vertically and disrupt the base flow.)
- Whether or not a permit was required, did what was done have an affect on the Schubert pond? (If the project was designed properly, the problem probably would not have occurred.)
- The HES report is a theory. The FPM report is not wrong just because HES disagrees.
- The Gates property is higher in elevation than the Schubert property. If some of the water is not going out of the drywell but into the ground below the drywell, wouldn't it go into the same soil it would have gone into if the Gates had done nothing? (If it is going vertically into the ground, it could flow in a couple of directions, not necessarily into the pond.)
- According to the FPM report the purpose of the drywell was to protect the water going to the French drain not to send it somewhere else.
- When an addition is made on a home and the impervious surface is being changed, a permit is needed, which necessitates the percolation tests. It is not common to require a percolation test for a repair, which was what the Gates project was believed to be. (Tests should be done regardless of whether a permit is required when a drywell is put in.)
- Would a well work if it was half the 60,000 gallon capacity? (Any well on the property would probably run dry if a pump was used.)
- Because there is no evidence that testing was done on the Gates property, it does not mean that it was not done.
- The FPM report said the flow of water going into drywell was consistent with the flow of water going into the pond, which would seem to indicate that water was not seeping underneath the drywell and going somewhere else. (FPM could not measure flow into the drywell.)

The following members of the audience commented on the discussion: *Robert Giglia, 14 Chester Drive; Jim Graham; former City Naturalist Chantal Detlefs, 96 Fox Run, South Salem; Ted Carroll, Forest Avenue; Jean Sinnott, 131 Purchase Street, John Carolin, 66 Milton Road and Ray Tartaglione.* Their comments included:

- It does not matter how much water flows into the pond. The question is how the pond is cleared out by a constant flow of water after it is filled. Something happened at the upper end of the French drain in 2006 that has shut off the natural flow of the water. If nothing is done to correct that the pond will continue to deteriorate.
- It is obvious where the water is going. When the water table is perched, the water goes below.
- If the project had gone through a permit process there would be less complications. If the drywell was dug deeper than what was originally there, it would have required a wetlands permit. The former Naturalist feels she should have been given the opportunity to do a wetlands determination. (In a repair situation a wetlands permit is not required. There was a disagreement among City staff. The former City Naturalist could have written a violation if she felt a permit was required, although she says she did not have the power to do so, or noted her disagreement in the memo she wrote in 2006.)

- If the City believes the project did not require a wetlands permit, why was the hydrologist hired? (After the former City Naturalist made a charge in February 2009 about the process that was followed, a hydrogeology engineer was hired in order to determine what happened and how could it be remedied.)
- The City is responsible for the situation because it allowed work to go on that should have required a permit. (The City makes decisions based on the facts they have before them.)
- Could the speed of the flow of water from leaders and gutters that at one time ponded on the Gates property and has been directed into the drywell change the speed of flow into the pond? (The HES report theorizes that the drywell is “stealing” water from the French drain and the groundwater table in the vicinity of the drywell.)
- Are drywells usually installed in wetlands? (Not usually. They do not work too well because the soils are poor.)
- Has anything that has been said convinced the City Council that something could be done to restore the water to the pond? (A dye test could be performed to establish the flow to the pond. There has been no demonstration of cause and effect. The City cannot act unless someone overturns the presumption made in the FPM report that the Gates property was not a factor.)
- The City should find a way to get access to the Gates’ property. (There are private property rights involved.)
- Some people in the community believe that the proper tests were not done on the Gates’ property in the beginning and, therefore, hold the City Council at fault for not doing something to relieve the situation.
- The “as built” plans are not accurate because they show a drywell with two inlets going into it and the FPM investigation photos shows only one. (Plans were not required because it was an unregulated activity.)

**7. Update on the Recession Planning Task Force**

City Manager Culross reported current economic conditions have had a serious economic impact on the City’s elastic revenues, with a revenue shortfall of at least 3% expected for 2009. City staff have developed a plan to offset this shortfall with expense cuts. The Recession Planning Task Force believes the City faces a multi-year impact and long term, alternative and regional service delivery opportunities must be developed. The immediate task is to prepare for the 2010 budget. The consequence of normal expense growth and an extraordinary drop in revenue results in a forecast of expenses exceeding revenues in 2010 at level tax rates. A portion of the gap can be closed by user fee adjustments and a modest property tax rate increase. The City is reviewing contractual relationships and considering service level adjustments. The Task Force is working with Senior Staff to identify areas for savings, opportunities for restructuring and a review of services in order to provide the Council and the community with choices when the 2010 budget is adopted. Mr. Culross added that one could hope things get better as the year continues but it is not the operating assumption of the Task Force.

Councilman Pratt said it was critical for the City to get input from the County as soon as possible relative to what is happening in terms of mortgage recording tax through the balance of 2009.

8. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: General Order #103.10 deployment of Electro-muscular Disruption Devices (Tasers)  
Roll Call

City Manager Culross said that this is a revision of the current rules and regulations that slightly expands the use of taser devices. It would authorize a member of each shift, generally the sergeant, to physically carry the taser in a holster. It is currently kept in the police vehicle. There have been discussions over the last several months with the Rye Police Association, who would prefer a policy allowing deployment of tasers to all officers at all times, and, therefore, they chose not to comment on the proposed revision. Police Commissioner Connors said that the Department has two tasers and that one is kept in a vehicle and one at headquarters. The proposed policy is an evolution in the deployment of the device. He added that according to the Police contract, when a rule or regulation change is proposed the Police Association is allowed 10 days to comment. This proposal was sent to them on April 16<sup>th</sup>. In response to a question about the number of officers needed to respond to traffic stops decreasing if all officers were issued tasers, the Commissioner responded that department policy on backing up other officers would not change as a result of this revision.

Councilman Pratt made a motion, seconded by Councilman Cunningham, to adopt the following Resolution:

**RESOLVED**, that the revision to the Rules and Regulations of the City of Rye Police Department, General Order #103.10, "Deployment of Electro-muscular Disruption Devices (Tasers)" is hereby adopted, as submitted.

**ROLL CALL**

AYES: Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Pratt and Sack  
NAYS: Councilwoman Parker  
ABSENT None

The Resolution was adopted by a vote of 6 to 1.

9. Resolution to grant permission to the Rye Free Reading Room to hold two free public programs "Tales with tails: Bedtime stories from around the world" on the Village Green on Tuesday, July 14, 2009 from 6 to 7 p.m. and Tuesday, August 11, 2009 from 6 to 7 p.m  
Roll Call.

Councilman Cunningham made a motion, seconded by Councilman Pratt, to adopt the following Resolution:

**RESOLVED**, that the City Council hereby grants permission to the Rye Free Reading Room to hold two free public programs "Tales with tails: Bedtime stories from around the world" on the Village Green on Tuesday, July 14, 2009 and Tuesday, August 11, 2009 from 6:00 to 7:00 p.m.

**ROLL CALL**

**AYES:** Mayor Otis, Councilmembers Ball, Cunningham, Gamache, Parker,  
Pratt and Sack

**NAYS:** None

**ABSENT:** None

10. Bid award for reconstruction of the City Hall Steps for the City of Rye Department of Engineering  
Roll Call.

Mayor Otis said this item has been put over from the last meeting because of Council questions about the necessity of doing the project at this time. City Manager Culross reiterated the staff recommendation that the project should proceed and the low bid be accepted. Councilman Ball asked for comments from other Councilmembers who have looked at the steps since he raised his objection at the last meeting. Comment included:

- The stairs are falling apart and the bids are low -- the project should be done.
- If the project is done, it should be done right and an architect should design it because City Hall is a centerpiece of the City.
- It should be patched to reduce any hazard or liability.
- The City should not go forward with a "business as usual" project in current economic times.
- If City staff believes the project should be done during these times, the Council should trust their recommendation.
- Patching is a waste of money, if the project is just being deferred for a year.

City Engineer George Mottarella said that the repair project would replace everything that is there now exactly the same way because the building is landmarked. He added that every time the project is patched more work has to be done and the patching does not last.

Councilman Pratt made a motion, seconded by Councilman Cunningham, to adopt the following Resolution:

**RESOLVED**, that Contract No. 2009-03, Reconstruction of City Hall Steps, is awarded to Contech Construction Technology, the low bidder whose bid meets the specifications, for the amount of \$59,414.00.

**ROLL CALL**

**AYES:** Mayor Otis, Councilmembers Cunningham, Gamache, Pratt and Sack

**NAYS:** Councilmembers Ball and Parker

**ABSENT** None

The Resolution was adopted by a vote of 5 to 2.

**Contract #2009-03**

**Reconstruction of City Hall Steps**

<b>BIDDER</b>	<b>SECURITY</b>	<b>AMOUNT BID</b>
Contech Construction	Bid Bond	59,414.00
Tardio Landscaping	Bid Bond	64,500.00
K-Con Site Developers	Bid Bond	91,530.00

**11. Discussion regarding the restoration work needed on the Square House**

City Manager Culross said the purpose of this agenda item was to update the Council regarding the project to repair the roof on the historic building, which was approved in the budget. There was \$81,000 allocated for the project in the budget, but a problem with chimneys that was not anticipated could increase the project to \$150,000. Councilman Pratt said he believed that short-term solutions can cost more money in the long run, especially with roofing projects. Councilwoman Parker said the City should consider a challenge grant for the project and suggested the Historical Society do some private fund raising. Mayor Otis said the Historical Society was still working on fund raising for their share of the fire suppression system for the Knapp House that protects the City's archives. Councilman Cunningham inquired as to why the entire project was not completed in 2008 when it was first approved. City Engineer Mottarella said that originally the Director of the Historical Society got a price on replacing the entire roof but problems with the chimneys were discovered and there was not enough money to do the entire project.

**12. Discussion regarding revising the Rye City code to allow for outdoor dining**

Councilwoman Parker said that the Central Business District (CBD) Task Force determined that residents would like outdoor dining and a provision in the City Code that allowed for this expired in 2000. She would like to see the law reinstated as soon as possible because recently some restaurants had started outdoor dining on their own property and were told they had to stop. City Manager Culross said that there were two issues involved in outdoor dining. Restaurants that have room on their own property must receive permission from the Planning Commission and those without room on their own property must also receive a license agreement from the City, which indemnifies and insures the City. He added that all restaurants may not be able to institute outdoor dining because of the width of some sidewalks in the CBD. Councilman Cunningham said that the Planning Commission was generally supportive of the idea but only in the downtown and also wanted clarity about what is considered a restaurant. Councilman Ball said he believed it should be extended to areas other than the CBD. Mayor Otis suggested that the Council set a public hearing for the next meeting but also pass a Resolution that would allow the Building Department and Planning Commission to receive applications in advance of the public hearing in anticipation of the law being enacted. Councilman Sack said there should be guidelines in the law. City Manager Culross said that applications on private property would go before the Planning Commission but those needing license agreements to use City property would also have to come before the City Council.

Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried to adopt the following Resolution:

**WHEREAS**, the Council wishes to amend Chapter 197, Zoning, of the Code of the City of Rye by amending §197-86 to allow accessory seasonal outdoor customer seating; and

**WHEREAS**, it is now desired to call a public hearing on such proposed amendments to the law, now, therefore, be it

**RESOLVED**, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on July 15, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed local law.

Section 2. Such notice of public hearing shall be in substantially the following form:

**PUBLIC NOTICE**  
**CITY OF RYE**

**Notice of Public Hearing on a proposed local law to amend Chapter 197, Zoning, of the Code of the City of Rye by amending § 197-86 to allow accessory seasonal outdoor customer seating.**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 15th day of July, 2009 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal to amend Chapter 197, Zoning, of the Code of the City of Rye by amending § 197-86 to allow accessory seasonal outdoor customer seating.

Copies of said local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse  
City Clerk  
Dated: July 3, 2009

Mayor Otis made a motion, seconded by Councilman Pratt and carried by a voice vote of 6-1 with Councilman Sack voting against, to allow businesses interested in beginning a dialogue with the Building Department and Planning Commission relative to outdoor dining to do so based upon past practices.

13. Miscellaneous communications and reports

Councilman Cunningham announced that the 20th Annual Kirby outing would be held on July 20<sup>th</sup>. He said that last year, the outing, which raises money to supplement Senior program expenses at Rye Recreation, raised over \$12,000. He asked anyone interested in participating in or sponsoring the event to call Tom Maloney at 310-7631.

14. Old Business

There was no old business to be discussed.

15. New Business

Councilman Sack suggested that since the Library has the names of contributors on the bricks outside the building, maybe there was some vanity funding the City could get for the City Hall steps. He also suggested that the City Council consider holding a meeting at The Osborn. He added that people who live at The Osborn may not be getting all the information about the litigation that would be discussed at a public meeting. Councilman Cunningham suggested that a forum would be held there in the Fall as part of the election.

16. Draft unapproved minutes of the regular meeting of the City Council held May 27, 2009 and minutes of the special City Council Meeting/Workshop held June 1, 2009



Mayor Otis made a motion, seconded by Councilman Cunningham and unanimously carried, to approve the minutes of the regular meeting of the City Council held on May 27, 2009 and the special meeting/workshop held on June 1, 2009, as amended.

17. Adjournment

There being no further business to discuss, Mayor Otis made a motion, seconded by Councilwoman Parker and unanimously carried, to adjourn the meeting at 1:05 a.m.

Respectfully submitted,

Dawn F. Nodarse  
City Clerk